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21 August 1969

MEMORANDUM FOR THE RECORD

Morning Meeting of 21 August 1969

DDI noted that there is now a strong possibility that NSSM-3 will be considered at an NSC meeting on 10 September in Washington rather than as previously reported to be held next week in San Clemente. He added that for the moment the Review Group is still scheduled to consider NSSM-3 in California next week. In response to the Director's question, the DDP noted that the Washington Special Action Group is still scheduled to review the Sino-Soviet item on the West Coast.

Lehman for Godfrey noted that today is the anniversary of the Russian invasion of Czechoslovakia and forecast continued repressive action by Czech authorities through 24 August.

Lehman reported on the accidental fire which gutted the Al Aqsa Mosque in Jerusalem and forecast some Arab counterattack.

* Abbot Smith reported on the status of NIE 11-8, and the Director asked that it be put on the 28 August agenda.

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Carver called attention to the item in the 19 August New York Times on the Phoenix Program and attributed some of the quotes to a relatively junior State Department officer.

Carver noted that NSSM-36 was due for JCS consideration today and explained his nonconcurrence for the Agency and the sequence of events late yesterday afternoon.

Maury called attention to the item in today's Washington Post concerning Congressman Rodino's interest in the Green Beret case and our denial of being involved (attached).

* Maury reported that according to John Blandford a great many questions are being raised on the Hill with respect to our alleged involvement in the Green Beret matter. Maury added that, if it were true that this case might be closed within the next few days by DOD, it might be well to accelerate appropriate briefings on the Hill. The Director observed that he anticipates being called to appear to testify shortly after Congress reconvenes, and asks that a complete scenario be prepared for his possible use.

* Carver noted that PFIAB is meeting today, and the Director commented that he would cover the Green Beret matter with them tomorrow. He asked the DDP to update the material contained in the memorandum on this matter to Dr. Kissinger.

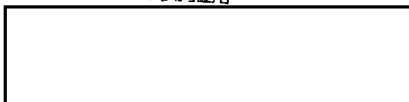
The Director noted the item in today's Washington Post on the re-emergence of the McCarthy case. Houston explained that we have worked with the JAG on this matter and that we provided negative information during the trial and the case is now in the appeals stage.

Houston reported on word from Saigon Station that the testimony required under Article 32 had been completed with respect to the Green Beret matter.

Bross briefed on the status of various items on the PFIAB agenda.

Duckett noted that he had met with General Maxwell Taylor yesterday and found him pleased with our contractual relationships.

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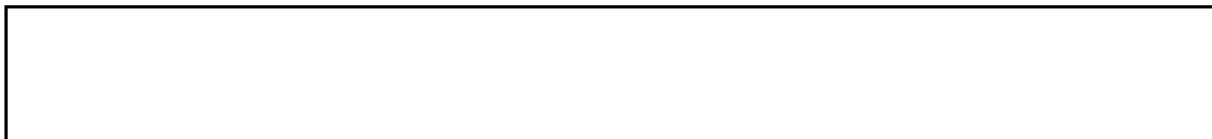


Bross briefed on problems encountered in our presentation to PFIAB's Communications Panel.



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Executive Director raised the question of deciding who would be the speaker at the 3 October session with the Armed Forces Staff College.

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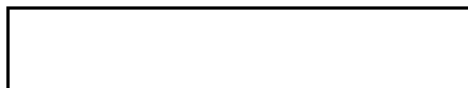


The Director asked what had happened with respect to the downed U. S. helicopter in Korea (see Morning Meeting Minutes of 18 August 1969), and Lehman replied that to date we have no firm information with respect to NK activity and the incident has received minimal press attention.

In response to the Director's question, Lehman reported that South Korean President Park is scheduled to arrive in San Francisco today.

The Director called attention to the item in today's New York Times by Russell Baker: "Observer: The Green Berets and a Question of Style."

Goodwin noted that an Australian correspondent had asked the Australian Embassy here for a briefing enabling him to do a story on CIA. The Director disapproved the briefing but agreed with Goodwin that his usual package of open material could be provided.

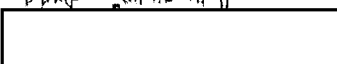


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L. K. White

*Extracted and sent to action officer

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C.I.A.-Planned Drive on Officials Of Vietcong Is Said to Be Failing

**U.S. Sources Say Suspects
Are Often Freed by Local
Vietnamese Authorities**

By TERENCE SMITH
Special to The New York Times

SAIGON, South Vietnam, Aug. 18—Operation Phoenix, a program designed by the United States Central Intelligence Agency to track down and sideline Vietcong officials, is reported to be bogging down. American officials blame local accommodation by the South Vietnamese.

Officials in charge of the program acknowledge that fewer than 20 per cent of the 25,233 suspected agents and sympathizers who have been arrested have received prison sentences of a year or more.

More than 80 per cent have been released or permitted to escape by Vietnamese authorities at the local level, acquitted or given sentences of a few months or less.

Since American involvement in the program stops at the point of arrest, United States officials say they are unsure about what happens when the suspects are turned over to the local authorities.

"Many of them just go out the back door of the jail," said John Mason, the head of the American advisers to the program. "We know that."

Some Are Treated Favorably

"Favoritism is part of it," he said. "Sometimes family relationships are involved. We know very well that if one of our units picks up the district chief's brother-in-law, he's going to be released."

Bribery and payoffs are also part of the explanation, American officials maintain. In some cases there seems to be a subconscious sympathy on the part of the local authorities who understand that accommodation with the Vietcong is often the key to survival in the countryside.

In other cases the Vietnamese authorities have been reluctant to penalize a Vietcong cadre member who, as a result of a compromise settlement achieved at the Paris peace talks, might turn out to be a province official. Like many Vietnamese, the local authorities tend to hedge their bets.

This is said to result in a critical weakening of a program that American officials have been describing as the most ambitious intelligence-gathering effort ever mounted in South Vietnam.

C.I.A. Created Phoenix

Phoenix was conceived by the Central Intelligence Agency in 1967 and put into operation in July of 1968. The object was to identify, ferret out and dispose of the Vietcong "infrastructure," enemy agents, organizers and cadre members that exist in nearly every village and city in South Vietnam.

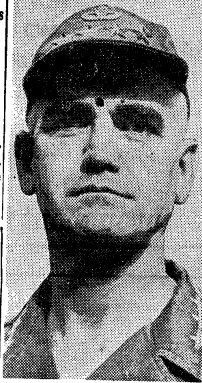
The theory was that if these people could be eliminated, Vietcong and North Vietnamese units would be denied the vital indigenous support they have enjoyed in intelligence, supplies and personnel.

"Phoenix teams," composed of South Vietnamese intelligence officers, National policemen, soldiers and Government representatives, have been installed in all 44 provinces and most of the 242 districts and cities throughout the country. Each team has one or two American advisers—some 450 in all.

Some of the advisers are intelligence officers of the Special Forces, or Green Berets, but it is reliably reported that none of these are involved in the current case involving eight Special Forces soldiers who are facing possible murder charges in the death of a Vietnamese national.

The teams coordinate all available intelligence to compile a blacklist of Vietcong recruiters, supporters and sympathizers in a given area. Once the dossier on an individual is completed, a paramilitary unit is sent to arrest him or, if necessary, to kill him.

The arrested suspects are



Gen. William C. Westmoreland cordoned off villages in action now thought to be inferior to Operation Phoenix in detecting the enemy.

questioned intensively. If the local Vietnamese authorities believe there is sufficient evidence, a suspect is turned over to the provincial authorities. Many are released at this point, however.

After a period in the provincial jail ranging from one to four months, depending on the backlog, the suspects cases are put before the province security council. This quasi-judicial body is composed of the province chief, a local court judge and six law-enforcement officers. It is supposed to meet once a week and often considers 20 to 30 cases at a sitting.

As a rule neither suspects nor witnesses appear. A judgment is usually made on the basis of the written record of the investigation.

The suspect is not usually permitted a lawyer and frequently is not allowed to reach his family until the investigation is completed.

This procedure is acknowledged to result in a variety of abuses. Often the case against a suspect consists largely of intelligence indications rather than hard evidence. Despite this, if the security council regards the case as conclusive, the man is imprisoned.

System an Improvement

Harsh as this may seem, American officials insist that the technique is an improvement over the old "county fairs" operations conducted under Gen. (former United States commander in Vietnam) William C. Westmoreland.

In which a whole village was cordoned off and screened and perhaps hundreds of people were detained with little semblance of due process. Now, the officials maintain, there is at least a quasi-judicial review of the evidence.

In theory, if the suspect is found to be a Vietcong organizer or official, he is supposed to be given a two-year sentence—the maximum without trial.

A number of reforms are being drafted to tighten the program and increase its effectiveness.

The teams will attempt to concentrate their efforts on Vietcong leaders—the so-called hard core—and ignore the rank and file. There will also be efforts to improve evidence-gathering techniques so that more conclusive cases can be presented to the security committees.

Regardless of how effective the reforms prove to be, the Phoenix program still stands a good chance of becoming obsolete overnight as a result of the Paris talks.

"If the negotiators reach an agreement in Paris," Mr. Mason said, "they will legitimize the very same people we are trying to round up. If they decide to give the Vietcong a role in the Government, the people we are hunting today may be in charge of delivering the mail or collecting the garbage tomorrow."

Murdered Vietnamese's Kin Insist Berets Stand Trial

From News Dispatches

SAIGON, Aug. 20—The brother of the apparent victim in the Green Beret murder case said today he will ask the South Vietnamese government to intercede if the Army drops charges against the eight accused Berets.

Reuters reported that Thai Khac Chuong said the family of Thai Khac Chuyen would ask for "the accused men to be tried either by a Vietnamese court of a joint Vietnamese-U.S. court."

Chuong said his father and family were gathering here to decide what to do next. He said, "My brother was an honest man who always told the truth."

"He, myself and my father have been sentenced to death by the Vietcong because of our military service for the government and for being former rich landowners in North Vietnam."

The brother said it was only "coincidence" that two Special Forces camps that Chuyen served in—one in the Ashau Valley and one at Tayninh—were fiercely attacked shortly after he left each.

Chuyen also was the only Vietnamese present at a briefing given an American general where some secret information leaked out, his brother said, explaining that this may have led to the Beret's suspicion.

The victim's wife, Pham Kim Lien, 30, said she last saw her husband on June 13, when he left for Camp Goodman, a special forces base in Saigon. She said that the day before he had taken a lie detector test at the camp.

A closed hearing at the

Longbinh stockade today recessed after six hours. It decides if the Berets will face a court martial for the June 20 killing of a Vietnamese man suspected of being a double agent.

Two civilian attorneys representing four of the eight men said after the recess they were confident the charges would be dropped after the hearing ends Thursday.

One attorney was optimistic that the arrival today of Secretary of the Army Stanley R. Resor "would bring intelligence and harmony to this unfortunate situation."

The lawyer, Henry B. Rothblatt of New York, described the hearing testimony as "weak and vague as I predicted."

He said no witnesses to the alleged murder were produced by the Army. None of the accused testified today, he said.

There was no official statement on the hearing, conducted in strict secrecy in a stockade chapel, but Reuters reported that one witness was a young enlisted man and one was a civilian Central Intelligence Agency employee.

Resor's visit was planned before the Beret case exploded. He is expected to probe into the charges, which resulted in Col. Robert Rheault, being relieved of his command of all Special Forces troops in Vietnam.

Rothblatt said morale among the seven officers and one enlisted man in the case was high and that they enjoyed the testimony. They were released from solitary confinement and given an air conditioned barracks on Sunday.

CIA Denies Suggesting Action in Beret Case

The Central Intelligence Agency yesterday denied it had made any recommendations to the Green Berets about how to deal with the Vietnamese national who was murdered.

Rep. Peter W. Rodino (D-N.J.) reported this as the CIA's position after John Marry, representative of the agency, met with the congressmen in his office here.

There have been widespread reports that the CIA was deeply involved in the murder case. Yesterday's assertion

was the closest thing yet to an official agency denial of involvement.

The CIA, according to Rodino, also denied it had recommended any disciplinary action be taken against the Green Berets in connection with the killing.

Beret Serves Term In 1967 Murder

By Richard Homan
Washington Post Staff Writer



Associated Press
Pham Kim Liem, wife of alleged murder victim.

A Green Beret captain is now serving a 24-year prison sentence after being convicted of murdering a civilian employe in Vietnam two years ago in a case strikingly similar to the current investigation of eight other members of the elite force.

Capt. John J. McCarthy Jr., 26, was charged with shooting a Cambodian who had been employed as a U.S. Army translator, whose loyalty had been questioned and whose employment, according to orders from higher authorities, was to be terminated.

Attorneys for McCarthy, who is imprisoned at Ft. Leavenworth, Kan., have appealed the conviction and sentence, contending that he was denied a fully public trial and was unable to subpoena witnesses.

Both his military counsel, Capt. Stewart P. Davis, and a special civilian attorney, Charles Morgan, of the American Civil Liberties Union, said yesterday that there were "many similarities" between McCarthy's case and that involving Col. Robert B. Rheault and seven other members of the Army Special Forces.

Similar Case Seen

"McCarthy is the only Special Forces man I know of ever charged, tried and convicted of a crime of the nature these eight are being investigated for," Morgan, who also defended Army Capt. Howard B. Levy, a prominent antiwar doctor, said yesterday.

The eight are charged with murder and conspiracy in the death of a Vietnamese civilian employe of the U.S. Army who apparently was suspected of being a double agent and who reportedly was the subject of an order for termination "with extreme prejudice."

McCarthy was convicted of the shooting of Inchin Hai Lam, an ethnic Cambodian living in Vietnam, on Nov. 24, 1967, in an auto about 10 miles outside Saigon. He was sentenced to life imprisonment at hard labor, but the sentence was later reduced to 24 years.

An appeal of the conviction and sentence is pending before the Court of Military Review, the second highest military court.

McCarthy insists, according to Morgan, that he did not shoot Lam. In this aspect, the case apparently differs from that now under investigation, where the paramount question appears to be whether the killing was justified.

"There is no question that the man is dead, that he died in the front seat of a four-door Datsun at 4 a.m., that McCarthy was in the car on the right-hand side of the seat, that a Special Forces sergeant who had a 9 mm pistol was driving, that McCarthy had a .38 caliber revolver cocked and loaded and out, that he was interrogating the Cambodian and that the employment was to be terminated," Morgan said yesterday.

Disloyalty Suspected

"McCarthy felt he had reason to believe the man was not loyal."

There was a shot, a window of the car shattered and Lam was hit, according to Morgan, but evidence introduced at the trial indicated death apparently was caused by a small caliber weapon, perhaps a .22, from outside the car.

Part of the trial was closed to the public, Morgan said. Davis said some trial and appeal documents carry a security classification. The trial received scant publicity, and its verdict was not reported outside Vietnam until six days after it ended. No details were made public at the time.

McCarthy, who enlisted in the Army in 1960, joined the Special Forces and was commissioned after attending Officer Candidate School, "has faith in the intra-military system of justice" and hoped to appeal his conviction without publicity, one informed source said. "But I guess the Special Forces people obviously feel he got a raw deal and want to see him cleared."

Observer: The Green Berets and a Question of Style

By RUSSELL BAKER

WASHINGTON, Aug. 20—The allegation is made that the Green Berets, acting on authority of the C.I.A., executed a Vietnamese national without due process of law. The dead man is said to have been a double agent and, therefore, fair game for frontier justice under the rules of electronic war and spying.

One dozes off at night on literary narcotics compounded of these ingredients, and the sensibility, except perhaps among moral quibblers, remains untouched by it. Twenty-five years of experience with the code of the nuclear superstate thickens the carapace around a man's sensibilities.

Without Due Process

War, after all, implies killing without due process, even of the disinterested. General Eisenhower undoubtedly spoke for the multitude when, a few years back, he defended the bombing of North Vietnamese targets which had resulted in killing civilians by noting that in warfare the deaths of some noncombatants were inevitable.

Why then should we be outraged if now and then an occa-

sional spy working to kill our men is summarily liquidated? The answer is that most of us are not. In fact, tales of the liquidation of such fellows, whether in nonfiction or film, are a staple of the book and entertainment industry.

The Lack of Style

The case of the Green Berets, however, is something else entirely. If the public gags on it, it is not because of the killing but because of the style in which the killing was done. Style may not be everything, but in America it counts for a great deal. You do not campaign in Bill Blass Bells if you want to be elected President, and you do not kill people in the Mafia manner if you want to be a hero.

The accounts from Saigon—and there is still no "official" account from the Government—do not suggest James Bond giving Odd Job his comeuppance so much as an old-fashioned Mafia execution of the sort perfected by Lepke and Pittsburgh Phil in Brooklyn during the 1930's.

A stool pigeon is seen talking to the wrong people. Not to the cops in this case, but to

the North Vietnamese. The report goes up to Mr. Big, in this case not someone highly placed in the "family" but someone with rank in the C.I.A.

Getting the Contract

The "contract" is issued from above. "Terminate with extreme prejudice"—bureaucrat-ese meaning that the big boys want the stoolie "hit." The Green Berets "interrogate" him. The body is stuffed into a weighted sack and dumped in deep water.

Clearly, this sort of thing will not do and it will not be surprising if this account of the affair, which has been leaked out by various mysterious Saigon "sources," is vigorously challenged by both C.I.A. and the Green Berets before the affair is closed.

As it stands, it violates every rule in the style book. A counterespionage agent ferreting out and killing a treacherous enemy is one thing; a deliberate execution aping the Mafia technique is something else. We are too accustomed, when the same technique is used in North Jersey or Philadelphia, to calling it murder.

We have all heard tales

about the C.I.A., and we accept the fact that it is a really tough outfit, but still it is part of our Government, and really now, if our Government has to be tough, can it not do better than emulate the odious style of the Mafia?

Indeed, if it cannot, why not contract this branch of the work out to the Mafia? At least when the Mafia does a job its executioners escape without exposure.

Violating the Style Book

In any case, contracting the job to the Green Berets violates every canon of style. We want the Green Berets to be hero-soldiers, the quintessence of the American warrior spirit. Who would gladly see his son enlist if he suspected he were going to be trained by Fast-Finger Eddie in the art of making a "hit"?

That he will be trained to kill—that, we as a people, have learned to accept. We still insist, however, that he be trained to do it in socially acceptable style and not like some ill-mannered hoodlum.

Later, perhaps, we may overcome this squeamishness, as our carapaces continue to thicken.